

REMARKS

In the Office Action mailed August 3, 2009, the Office noted that claims 13-15 and 20-24 were pending and rejected claims 13-15 and 20-24. Claims 13, 23 and 24 have been amended, claim 22 has been canceled, claims 25 is new, and, thus, in view of the foregoing, claims 13-15, 20, 21 and 23-25 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

REJECTIONS under 35 U.S.C. § 112

Claims 13-15 and 20-24 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Applicants have amended the claims to overcome the rejection of the Office.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 13-15 and 20-24 stand rejected under 35 U.S.C. § 103(a) as being obvious over Masui, U.S. Patent No. 7,301,870 in view of Sasaki, WO2004/077418, U.S. Patent No. 7,230,895. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

On page 5 of the Office Action, it is asserted that Masui Fig. 7 discloses "the short mark is a mark which does not have a level of largest magnitude, and the long mark is a mark which has a level of largest magnitude," as in claim 22.

However, Fig. 7 in the Masui reference only shows that the average Idc3 for the marks other than the 3T marks is different from the average Idc3 for the 3T marks (see Masui col. 9). The Masui reference does not disclose that the short mark is a mark which does not have a level of largest magnitude, and the long mark is a mark which has a level of largest magnitude.

The Office does not assert and the Applicants have not found that Sasaki discloses such a feature.

As such, the combination of the references fails to disclose, teach or suggest the recording power of a mark which does not have a level of largest magnitude is appropriately determined in order to obtain a desired recording characteristic.

The Applicants have amended claims 13, 23 and 24 to include this feature. Support can be found, for example, in claim 22 and at page 16, lines 30 to 34 of the Specification. As the amendment includes the features of claim 16, it is respectfully submitted that no new search is required and that the amendment should be entered.

For at least the reasons discussed above, Masui and Sasaki, taken separately or in combination, fail to render obvious the features of claims 13, 23 and 24 and the claims

dependent therefrom.

NEW CLAIM

Claim 25 is new. Support for claim 25 may be found, for example, in the deleted portion of claim 13. As such it is respectfully submitted that no new search is required and that the amendment should be entered. The prior art of record fails to disclose the recording power of the long mark is determined such that waveform distortion does not occur or the waveform distortion becomes equal to or smaller than a predetermined value, the waveform distortion indicating a ratio of distortion amount, with respect to magnitude, of an RF signal generated by reproducing recording marks recorded by the test writing.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112 and 103. It is also submitted that claims 13-15, 20, 21 and 23-25 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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